

Appl. No. 09/936,119
Amdt. dated Oct. 3, 2003
Reply to Office Action of Aug. 22, 2003

REMARKS/ARGUMENT

This amendment responds to the Office Action of August 22, 2003.

Claims 28-33, 35-42, and 44-62 are pending in the application with claims 1-27 having been previously canceled; claims 34 and 43 currently canceled; claims 59 and 60 having been amended; former claim 43 having been re-presented as new claim 61, and former claim 34 having been re-presented as new claim 62.

The Examiner has stated that claims 34, 41, 43, 44, 48-50, 52-54, and 58 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As noted above, claim 62 is re-presented as former claim 34 rewritten in independent form including the limitations of base claim 28 and intervening claims 29 and 30.

Similarly, claim 61 is former claim 43 rewritten in independent form incorporating the limitations of base claim 28 and intervening claim 35.

Accordingly, it is submitted that claims 61 and 62 are in condition for allowance.

The Examiner has advised the Applicants that should claim 55 be found allowable, claim 57 will be objected under 37 CFR 1.75 as being a substantial duplicate thereof. The Examiner's position is not understood. Claim 55 is a process claim and claim 57 is a product by process claim. Clearly, a single patent can include both process claims and product by process claims. If a person were to use the product, but not make it, he could be infringing claim 57, but not infringing claim 55. Thus, the claims are not duplicates.

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Claims 59 and 60 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. Specifically, according to the Examiner, claims 59 and 60 are unclear as to whether the composition of those claims is being applied to the situs of crops. It is believed the amendments to claims 59 and 60 clarify that the composition is being applied to the situs of the crops. Accordingly, it is requested that the rejection of claims 59 and 60 under 35 U.S.C. 112, second paragraph, be withdrawn.

Claims 28-31, 35, 40, 42, 45, 46, 51, and 55-57 have been rejected under 35 U.S.C. 102(b) as being anticipated by Hedstrand et al. (U.S. Patent No. 5,560,929).

Claims 32-34, 36-39, 47, 52, and 53 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Hedstrand et al.

Hedstrand et al. disclose the modification of dense star polymers or dendrimers having a highly branched interior structure capable of associating or chelating with metal ions by capping with a hydrophobic group capable of providing a hydrophobic outer shell. The modified dendrimers are said to be useful for dispersing metal ions in a non-aqueous polymer matrix. Also dense star polymers or dendrimers having a highly branched hydrophilic interior structure are modified by capping with a hydrophobic group capable of providing a hydrophobic outer shell, which modified polymers are said to be useful as gels and surfactants.

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It is respectfully submitted that the Examiner failed to understand the releasing property of the composition of the invention in that he links this property to a hypothetical active dendrimer. In the composition of the present invention, the component that possesses biological activity is a pesticide active substance. The contribution of the dendrimer is the property of forming a gel composition comprising the active substance, wherein the active substance can be released from the composition in order to be available to the pest to be controlled. The gel structure of the composition obtained by the use of dendrimers permits such a release. Thus, it is not the dendrimer that can be released, but, rather the active substance held within the dendrimer.

The Examiner states that Zhang et al. (CN 1138945) discloses that copper (Cu) and manganese (Mn) are plant growth regulators (PGR). He is not correct.

The actual disclosure of this citation- which has not been applied to any claims - is a combination of components that possesses some biological activity on plants. It is this combination that is said to possess plant growth regulating activity, and not the individual components thereof. Indeed, Cu and Mn are disclosed as parts of this combination; moreover, in specific ranges of amounts, but without any teaching of their individual properties. The cited abstract appears to be sufficiently clear on this point, as it starts by reciting that the PGR agent is prepared by mixing more than eleven components without particularly pointing out one or another of these components. These elements form 38% of the PGR agent, the rest being constituted of straw, dung, and other materials.

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Thus, this document does not teach or suggest the use of Cu or Mn as bioactive agents, and even less does it suggest the combination of such elements with dendrimers in order to form an agricultural composition in any way similar to that of the present invention.

Turning to U.S. Patent No. 5,560,929, the examiner considers that this document anticipates or renders obvious the currently claimed invention. These rejections are respectfully traversed.

With respect to novelty, the compositions disclosed by Hedstrand et al. may contain Cu or Mn only as complexed or chelated metals by the polymers as referred to in this patent. Indeed, in column 6, at lines 56-53, the reference effectively refers to these two metals in connection with the use of dendrimers, *not* as active ingredients, but, rather, as targets of the chelating or complexing properties of the polymer-comprising compositions that are the object of this patent. Moreover, in this same paragraph, these metals are not cited as metals, *per se*, but as metal ion species, more precisely, as *salts* of such metals or metal ion species.

With respect to using the dendrimers of this patent as gelling agents or surfactants, this possibility is mentioned in connection with the dendrimers *themselves*, but *not in a pesticide composition*. The same applies to the composition of this patent in which the solvent has been partially removed and the composition powdered, and for vacuum-dried compositions free of solvent.

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Accordingly, it is requested that the rejections of claims 28-31, 35, 40, 42, 45, 46, 51, and 55-57 under 35 U.S.C. 102(b) as being anticipated by Hedstrand et al. and of claims 32-34, 36-39, 47, 52, and 53 under 35 U.S.C. 103(a) as being unpatentable over Hedstrand et al. be withdrawn.

In view of the foregoing, it is submitted that this application is in condition for allowance and an early Office Action to that end is earnestly solicited.

Respectfully submitted,



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